

<b>POLICE/SHERIFF'S DEPARTMENT</b>		<b>GENERAL ORDERS</b>	
<b>SUBJECT: Asset Forfeiture</b>		<b>NUMBER: 2-36</b>	
<b>EFFECTIVE DATE: July 1, 1999</b>		<b>REVIEW DATE:</b>	
<b>AMENDS/SUPERSEDES: GO 2-36, October 1993</b>		<b>APPROVED: _____ Chief of Police/Sheriff</b>	
<b>CALEA STANDARDS:</b>		<b>VLEPSC STANDARDS: OPR.03.06</b>	

## **NOTE**

This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

## **INDEX WORDS**

Asset forfeiture  
Drug enforcement  
Forfeiture  
Narcotics

## **I. POLICY**

A constitutional amendment to state law permits law enforcement agencies to benefit directly from the seizures made in narcotics or drug investigations. Formerly, in order to receive financial assistance through seized assets, law enforcement agencies had to use the federal forfeiture process. The department aggressively enforces narcotics and dangerous drugs laws, and where officers make a substantial seizure of property according to state law, the department shall begin forfeiture proceedings. Any assets recovered through the forfeiture process, whether money or property, will be applied to legitimate enforcement needs, primarily to carry out other drug enforcement strategies. Under no circumstances will personnel select enforcement targets because of the expected financial gain accruing to the department: enforcement strategies are not dictated by profit.

## **II. PURPOSE**

To outline the department's participation in asset forfeitures from drug enforcement cases, and to state responsibilities of the asset forfeiture coordinator.

## **III. DEFINITIONS**

A. Asset forfeiture coordinator (AFC)

The AFC is the officer designated by the chief/sheriff to be conversant in state forfeiture law (*Virginia Code*, §§ 19.2-386.1 through .14), to identify assets in case records, and begin the legal process to appropriate these assets for department use. The AFC also performs as liaison to other state and federal agencies, and the courts as needed.

1. The AFC shall also understand the authority of § 18.2-249 which allows for the seizure and forfeiture of property used in narcotics trafficking.
2. The AFC shall maintain a current edition of the *Forfeited Assets Seizure Manual* (FASP), published by the Department of Criminal Justice Services (DCJS).

B. Designated seizing agency

The designated seizing agency is the one which initiates the seizure or which retains possession of the seized property. It may be the agency chosen by mutual decision of the participating agencies.

C. Assets

Assets are **anything** of value seized in connection with a drug transaction and include both in-kind property and proceeds. In-kind property consists of whatever an agency can put to immediate use. Proceeds refer to money that is raised through sale of property of a kind not immediately useful.

#### IV. PROCEDURES

A. Responsibilities of the asset forfeiture coordinator (AFC)

1. Reviews all offense reports to identify property subject to forfeiture.
2. Ensures that all seizures for forfeitures are reported to DCJS.
3. Reports to the assistant chief of police/chief deputy on all matters pertaining to forfeiture proceedings.
4. Chooses and coordinates with vendors hired to manage seized property.
5. Coordinates, where possible, with other agency representatives, as designated by the chief/ sheriff, for "pre-seizure" planning meetings to evaluate target assets to ascertain ownership and the existence of liens or encumbrances.

- a. Personnel planning a seizure of assets shall make every reasonable effort to identify innocent lienholders to avoid inconveniencing them.

***[Note: Up to this point, the order addresses generic asset-forfeiture administration common to both state and federal procedures. If the agency wishes to participate in state forfeiture procedures, the AFC shall:]***

6. Coordinate with the commonwealth's attorney to enter a default judgment against persons who fail to respond to the court within 30 days to defend against seizure of their property.
7. Apply to DCJS for return of in-kind property for legitimate law enforcement use.
8. Coordinate with the commonwealth's attorney or other officials as necessary to obtain a commercial sale of property in appropriate cases.
9. Coordinate with other agencies participating in a regional drug enforcement task force to agree on which agency will become the designated seizing agency for purposes of forfeiture proceedings. Negotiate with participating law enforcement agencies for a suitable division of assets.
  - a. Where agencies seize property pursuant to membership in a regional task force, the AFC shall forward to DCJS a copy of the interagency agreement or contract that authorizes the task force.
  - b. The AFC shall assist inter-jurisdictional coordination to ensure that localities maintain separate forfeitures, accounts, and auditing procedures. Similarly, the AFC shall track cases in which the department is involved but is not the primary seizing agency.
10. Ensure that the locality's certification (that the proceeds will be used for law enforcement purposes only and will not supplant existing resources) is submitted to DCJS, and renewed annually by the county/city manager.
11. Ensure that seized money is forwarded to DCJS in check form. Coordinate with the locality finance officer, as necessary.

***[NOTE: If the finance officer is a member of the law-enforcement agency, the following responsibilities should be included in the agency order. If the finance officer serves the town or county, then the following responsibilities should be included in a job description or other town/county document.]***

- B. The agency finance officer shall:

1. Prepare checks to DCJS as soon as possible upon receipt by the agency of forfeited funds from drug transactions.
2. Prepare and maintain records on all property accruing to the agency through drug forfeitures and retain these records for a minimum of three years.
3. Annually conduct an audit of all property seized attendant to drug transactions, including an audit of all property subjected to forfeiture proceedings. Forward a copy of all audits to DCJS upon request.
4. Compile and retain a file of all receipts for cash or property obtained and sold or otherwise disposed of through asset forfeitures procedures.

**C. If the agency elects to pursue forfeiture through federal proceedings, then the AFC does not notify DCJS.**

**D. Evidentiary considerations**

1. Officers searching businesses, residences, or vehicles for narcotics evidence shall try to obtain documents relating to the ownership of the items seized.
2. Officers must obtain complete data on all suspects and participants when a seizure is made. This data include name, date of birth, race, sex, nationality, height, eye and hair color, complete address with zip code, telephone number, Social Security number, and any other identifying numbers such as driver's license number.
3. When interviewing suspects or participants, officers shall try to elicit statements of ownership or lienholding, and origin (how did the property come into the suspect's possession).